

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

RUDELL FUNZIE,

Plaintiff,

v.

GEORGE M. LITTLE, *et al.*

Defendants.

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**Case No. 1:09-0001
Judge Echols**

ORDER

This is an action under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc, in which Plaintiff alleges that various Tennessee Corrections Department employees confiscated some of his religious materials when he was assigned to the Wayne County Boot Camp. The Magistrate Judge has issued a Report and Recommendation (“R & R”) (Docket Entry No. 35) recommending that “Defendants Little, Westbrook, Murphy and Mathis’ Motion to Dismiss” (Docket Entry No. 33) be granted. The R & R was issued on May 19, 2009, and Plaintiff has filed no objections thereto, even though he was granted an extension of time to June 29, 2009 within which to file any objections to the R & R (Docket Entry No. 39).

Where, as here, no objections are made to the R & R, “[t]he district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.” Fed.R.Civ.P. 72(b).

The Court has thoroughly reviewed the record in this case and the applicable law and concludes that the Magistrate Judge was correct in recommending dismissal of Defendant George M. Little, the Commissioner of the Department of Corrections, because there is no *respondeat superior* liability under Section 1983. Monell v. New York City Dept. of Soc. Serv., 436 U.S. 658, 694 (1978). The Magistrate Judge also correctly concluded that Defendants Deputy Warden Bruce Westbrook and Corporal Darrell Murphy should be dismissed because their sole involvement was

the alleged mishandling of a grievance which is not a cognizable claim under Section 1983. Shehee v. Luttrell, 199 F.3d 295, 300 (6th Cir. 1999). Finally, the Magistrate Judge properly recommends dismissal of Defendant Tom Mathis because the Complaint contains no allegations against him, other than he “is a Correctional Officer of the Tennessee Department of Corrections, who, at all times mentioned in this complaint, held the rank of Captain.” (Complaint ¶ 13).

Accordingly, the Court hereby rules as follows:

(1) The Report and Recommendation (Docket Entry No. 35) is hereby ACCEPTED and APPROVED;

(2) “Defendants Little, Westbrook, Murphy and Mathis’ Motion to Dismiss” (Docket Entry No. 33) is hereby GRANTED; and

(3) The claims against Defendants George M. Little, Bruce Westbrook, Darrell Murphy, and Tom Mathis are hereby DISMISSED WITH PREJUDICE. The case shall proceed against the remaining Defendants Brandon, Smith, Dixon, McDonald, Odle, and Flanders.

This case is hereby returned to the Magistrate Judge under the original Order of Reference (Docket Entry No. 8).

It is SO ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE